

REMARKS

Entry of this Amendment after final rejection is respectfully requested. Upon entry of this amendment, claims 3-6 and 8-13 will be cancelled without prejudice or disclaimer of the subject matter recited therein and with the preserving of Applicants' right to submit the cancelled claims in one or more continuation and/or divisional applications; and claims 1, 2, and 7 will be amended. Claims 1, 2, and 7 are pending.

Entry of this Amendment after final rejection is appropriate because the amendment cancels claims and is being made to include language in the claims that is in conformance with the Examiner's suggestions as discussed with the Examiner during a telephone interview that will be discussed below.

Support for the instant Amendment can be found throughout the specification and original claims, including, for example, original claims 1, 4, and 6. No new matter has been added.

Reconsideration and allowance of the application are respectfully requested.

Statement of Interview

Applicants express appreciation for the courtesies extended by Examiner Christine Foster during a telephone call on August 6, 2010 with Applicants' representative Walter Schlapkohl.

During the telephone call Examiner Foster and Applicants' representative discussed claim amendments which may place the claims into condition for allowance. The Examiner indicated that incorporation of the features of claim 6 into claim 1 may be acceptable. No agreement was reached.

During follow-up telephone calls on August 19, 2010, and August 25, 2010, the Examiner indicated that claim amendments as included herein would be acceptable.

Response to Claim Rejections - 35 U.S.C. § 112, First Paragraph

The Office Action indicates that the claims are enabled for methods of detecting a perilymph fistula by detecting the existence of a 16 kDa N-terminal fragment of Cochlin using an anti-Cochlin N-terminal fragment antibody that recognizes an antigenic determinant contained within amino acids 36 to 127 of SEQ ID NO: 1, but rejects claims 1-2 and 4-7 under 35 U.S.C. §

112, first paragraph, as allegedly not enabled for methods of detecting a perilymph fistula by detecting the existence of Cochlin by any means.

In response, and without acquiescing to the propriety of the rejections under 35 U.S.C. § 112, first paragraph (enablement), Applicants submit that the rejection of claims 4-6 is rendered moot by the present amendment insofar as claims 4-6 have been cancelled. Applicants further submit that claim 1 has been amended to recite *inter alia* detecting the existence of a p63 isoform of Cochlin, an N-terminal fragment of a p63 isoform of Cochlin, or a 16 kDa N-terminal fragment of Cochlin in body fluid existing in the middle ear with “an antibody which recognizes an antigenic determinant contained in amino acids 36 to 127 of the amino acid sequence shown in SEQ ID NO: 1.” Applicants further submit that such amendment is therefore in conformance with language found acceptable by the Examiner in the Office Action of May 25, 2010, as well as in the telephonic discussions summarized above.

Accordingly, Applicants respectfully request reconsideration of the rejections under 35 U.S.C. § 112, first paragraph (enablement), and withdrawal of the same.

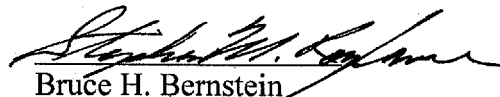
CONCLUSION

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejections of record, and allow all the pending claims.

No fee is believed due at this time. If, however, any additional fee is necessary to ensure consideration of the submitted materials, the Patent and Trademark Office is hereby authorized to charge the same to Deposit Account No. 19-0089.

Any comments or questions concerning this application can be directed to the undersigned at the telephone number given below.

Respectfully Submitted,
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